

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)

(PCT Rules 44bis.3(c) and 72.2)

To:

BERNHARDT, Reinhold
Kobenhüttenweg 43
66123 Saarbrücken
ALLEMAGNE

Date of mailing (day/month/year) 09 March 2006 (09.03.2006)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference 15356/-S	
International application No. PCT/EP2004/003701	International filing date (day/month/year) 07 April 2004 (07.04.2004)
Applicant SIEBEL, Thomas	

Vorfrist _____ not.

Eing.: 23. März 2006

Fristablauf _____ not.

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Ellen Moyse
Facsimile No.+41 22 740 14 35	Facsimile No.+41 22 338 89 75

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 15356/-/S	FOR FURTHER ACTION		See item 4. below
International application No. PCT/EP2004/003701	International filing date (<i>day/month/year</i>) 07 April 2004 (07.04.2004)	Priority date (<i>day/month/year</i>) 15 April 2003 (15.04.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant SIEBEL, Thomas			

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	This REPORT consists of a total of 9 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input checked="" type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application																							
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 02 March 2006 (02.03.2006)
Facsimile No. +41 22 740 14 35	Authorized officer <div style="text-align: center; font-weight: bold;">Ellen Moyse</div>
Telephone No. +41 22 338 89 75	

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

Translation

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference
15356/-/S

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/003701

International filing date (day/month/year)

07.04.2004

Priority date (day/month/year)

15.04.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

SIEBEL, Thomas

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. II

Priority

1. ☒ The following document has not yet been furnished:
 - ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	6, 7, 9	YES
	Claims	1-5, 8, 10	NO
Inventive step (IS)	Claims	6, 7, 9	YES
	Claims	1-5, 8, 10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: US 2001/007957 A1 (MARTIN DANIEL L ET AL) 12 July
2001 (2001-07-12)

D2: US-A-5 389 107 (ECKSTEIN EUGENE C ET AL) 14 February
1995 (1995-02-14)

D3: DE 197 25 269 A (BAROUD GAMAL DR; BRAEMER KLAUS DIPL
ING (DE); KREISIG REINER PROF) 7 January 1999 (1999-01-
07)

2. Each one of documents D1-D3 discloses (reference signs
between parentheses refer to the corresponding document):

A hip prosthesis (D1: Fig.1; D2: Fig. 1; D3: Fig. 1) with
a joint part and an anchoring part (D1: 508, 520; D2: 34,
38; D3: 2, 3, 5) which is to be implanted in the neck of
a femur, the anchoring part being able to be deformed in
a manner that corresponds to possible load-associated
deformations in the area of the neck of the femur (D1:
paragraph 0178; D2: column 4, lines 3-12; D3: column 1,
lines 28-34).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

The subject matter of claim 1 therefore does not meet the requirements of PCT Article 33(2) for novelty.

3. Regarding the dependent claims, it will be noted that document D1 discloses all the features of claims 2-5, 8 and 10, and document D2 discloses all the features set forth in claims 2-4.

For this reason, claims 2-5, 8 and 10 also do not meet the requirements of PCT Article 33(2).

4. The applicant is invited to submit new documents which deal with and rectify all of the objections raised. An accompanying letter should be provided explaining why a newly filed independent claim 1 should be considered novel and inventive.

4.1 When filing amended claims, the applicant must also bring the description into line with the amended claims. When reworking the application, particularly the introductory part and the disclosure of the object and the advantages of the invention, care should be taken to ensure that its subject matter does not go beyond the content of the application in its originally submitted form (PCT Article 19(2)).

5. To facilitate the examination of amended application documents in respect of PCT Article 19(2), the applicant is requested to ensure that the amendments made, irrespective of whether they are amendments involving addition, replacement or deletion, are clearly indicated, and also to show which passages in the originally filed

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

application these amendments correspond to.

If appropriate, these details can be provided in
handwritten form on copies of the relevant parts of the
original application.

• WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

6. Pursuant to PCT Rule 5.1(a)ii, the description should have cited documents D1-D3 and briefly outlined the relevant prior art contained in these documents. In the description, the applicant should make clear which features of the subject matter of independent claim 1 are already known from these documents.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003701

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

7. In claim 1, the reference to a femur should be changed from "in the neck of the femur" to "in the neck of a femur" in order to avoid problems concerning clarity.

8. Claim 10 refers to parts (9, 10) which were mentioned first in claim 3. Therefore, claim 10 should correctly be dependent on one of claims 3-9.

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